

UNITED STATES DISTRICT COURT

for the

District of South Carolina



In the Matter of the Seizure of
(Briefly describe the property to be seized)

\$129,890.80 from the Anderson Brothers Bank
 Accounts described below

)
)
)
)
)

Case No. 2:22-cr-00019

**APPLICATION FOR A WARRANT
 TO SEIZE PROPERTY SUBJECT TO FORFEITURE**

I, a federal law enforcement officer or attorney for the government, request a seizure warrant and state under penalty of perjury that I have reason to believe that the following property in the _____ District of _____ South Carolina is subject to forfeiture to the United States of America under _____ 18 U.S.C. § 981(a)(1)(c) *(describe the property):*

\$129,890.80 in funds from the following Anderson Brothers Banks accounts: Account Number: 330013723, Account Number: 333000248, and Account Number: 331016816

The application is based on these facts:

See Attached Affidavit of Agent Hailey Barraco

☐ Continued on the attached sheet.


 Applicant's signature

Special Agent Hailey Barraco

Printed name and title

Sworn to me via telephone or other reliable electronic means
 and signed by me pursuant to Fed. R. Crim. P. 4.1 and 41(d)(3).

Date: December 15, 2021

City and state: Charleston, South Carolina




 Judge's signature

The Honorable Mary Gordon Baker

Printed name and title

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

IN THE MATTER OF THE SEIZURE OF

Anderson Brothers Bank Accounts belonging
to GAME OVER SPORTS and LANARD
SMITH

Case No. 2:22-cr-00019

Filed Under Seal

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEIZURE WARRANT**

I, Hailey Barraco, a Special Agent with Immigration and Customs Enforcement, Homeland Security Investigations ("ICE/HSI"), United States Department of Homeland Security, being first duly sworn, depose and state under oath as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am an "investigative or law enforcement officer of the United States" within the meaning of Title 18, United States Code, Section 2510(7), that is, an officer of the United States who is empowered by law to conduct investigations and to make arrests for offenses enumerated in Title 18, United States Code, Section 2516.

2. I have been a Special Agent (SA) with the United States Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI) since April of 2019. I am currently assigned to the Assistant Special Agent in Charge (ASAC) Charleston, SC office. I am a graduate of the Federal Law Enforcement Training Center and the HSI Special Agent Training Academy. My responsibilities as a Special Agent include investigating crimes involving the importation and exportation of merchandise contrary to law, controlled substances, and child exploitation. I have

also worked, assisted, and observed numerous examples of the sale of counterfeit good and intellectual property rights investigations.

3. As a Special Agent with HSI, I have received training in the investigation and prosecution of violations of Customs and Immigration laws, including those related to money laundering, bulk cash smuggling, wire fraud, mail fraud, and the importation and exportation of merchandise contrary to law. Moreover, I am a federal law enforcement officer who is engaged in enforcing criminal laws, including Title 18, United States Code, Sections 545 and 2320, and I am authorized by law to request a search warrant.

4. I am submitting this affidavit in support of an application which seeks the issuance of a federal seizure warrant authorizing agents of HSI who are involved in the investigation to seize the below described property:

All funds, monies, and things of value up to \$129,890.80 in the following accounts located at Anderson Brothers Bank, contact information: 101 North Main Street, Mullins, SC 29574, phone 843-464-6271:

- **Account of GAME OVER SPORTS – Account Number: 330013723 (“Subject Account”).**
- **Account of LANARD SMITH – Account Number: 333000248 (“0248 Account”).**
- **Account of LANARD SMITH – Account Number: 331016816 (“6816 Account”).**

The three Anderson Brothers Bank Accounts are collectively referred to herein as “Smith/Game Over Sports Accounts”.

5. Your Affiant has probable cause to believe that the funds up to \$129,890.80 in the previously mentioned **Smith/Game Over Sports Accounts** above contain unlawful proceeds of violations relating to Title 18, United States Code, Section 545 the unlawful importation of merchandise contrary to law, and Title 18, United States Code, Section 2320 the trafficking of

counterfeit goods or services and are thereby subject to civil and criminal forfeiture pursuant to Title 18 U.S.C. § 981(a)(1)(C), made applicable to criminal forfeiture by Title 28 U.S.C. § 2461(c). The funds described herein are also thereby subject to civil and criminal seizure pursuant to Title 18 U.S.C. § 981(b) and Title 21 U.S.C. § 853(e) and (f) by Title 18 U.S.C. § 982(b)(1). Pursuant to Title 18 U.S.C. § 984(a)(1) and with respect to funds deposited in a financial institution, it is not necessary for the Government “to identify the specific property involved in the offense that is the basis for the forfeiture” so long as the forfeiture action is commenced within one year of the offense.

6. This affidavit does not purport to set forth all of my knowledge or investigation concerning this case. The statements contained in this affidavit are based on my personal knowledge or from information that I have learned in the course of my investigation, including information from financial institutions, witnesses, and other HIS agents participating in the investigation.

STATEMENT OF PROBABLE CAUSE

7. In August 2021, the South Carolina Secretary of State provided information to HSI Charleston regarding a store believed to be selling counterfeit goods such as clothing, shoes, and accessories typically sold in authorized retail stores with trademark brands such as Nike and Jordan. The items were being sold out of a storefront in the Northwoods Mall called GAME OVER SPORTS located at 2150 Northwoods Boulevard, H-600, North Charleston, SC 29406.

8. An employee with the City of North Charleston verified the business license submitted for the storefront GAME OVER SPORTS was in the name of LANARD SMITH with phone number (843) 532-7178.

9. Records checks of LANARD ISAAC SMITH indicate a prior federal counterfeiting charge and conviction in 2008. Records show that his brother, RAYNARD JACOB SMITH was also involved and convicted of counterfeiting in 2008.

10. A query of the Advanced Targeting System (ATS), which tracks cargo coming in and out of the country shows approximately 48 shipments arriving at the 2150 Northwoods Boulevard, H-600, North Charleston, SC 29406 in the name of RAY SMITH, LARRY SMITH, and GAME OVER SPORTS between April 17, 2021 through November 16, 2021. These shipments are coming from a variety of countries such as Japan, Malaysia, China, and Hong Kong. The shipments are labeled to contain items such as casual shoes, sports shoes, women's sport suit, men's running shoe, etc.

11. ATS also shows 33 shipments arriving at 600 Westbury Mews Drive, #E, Summerville, SC 29485, in the name of RAYNARD SMITH and ISAAC SMITH between June 2019 and May 2021. These shipments are coming from a variety of countries such as Germany, Japan, Taiwan, China, Hong Kong, Italy, and the United Kingdom. The shipments are labeled to contain items such as men's athletic footwear, men's sport shoes, men's coat, clothes, men's sneakers, cotton mask, etc.

12. Records checks indicate that at least seven of the shippers – for the shipments described in paragraphs 8 and 9 – have been associated with Intellectual Property Violations.

13. On or about September 28, 2021, HSI Charleston utilized a member of the South Carolina Secretary of State to purchase suspected counterfeit apparel from GAME OVER SPORTS located at 2150 Northwoods Boulevard, H-600, North Charleston, SC 29406. The purchase included a Nike Kobe Bryant Los Angeles Lakers basketball jersey. The Jersey was priced at \$150.00. The individual working the store also provided a Lakers facemask for free and

failed to charge taxes on the purchase. The total amount paid for the jersey was \$150.00. The jersey was reviewed by Investigator Rick Hawks, a representative with Blazer Investigations¹ specializing in Intellectual Property Right matters. Investigator Hawks later notified HSI Charleston the Lakers Jersey purchased from GAME OVER SPORTS was counterfeit.

14. On December 14, 2021, HSI Charleston executed a federal search warrant at GAME OVER SPORTS located at 2150 Northwoods Boulevard, H-600, North Charleston, SC 29406. Based on confirmation from Blazer Investigations, the merchandise within the store was counterfeit and items are being seized by HSI Charleston. LANARD SMITH was present at the location and opened the store front at approximately 1030 hours.

15. Counterfeit goods and merchandise have been seized through the execution of the federal search warrant at GAME OVER SPORTS.² In the execution of the warrant, a variety of counterfeit jerseys were seized, and these jerseys have been confirmed by Blazer Investigations to be counterfeit.

16. The preliminary estimate is GAME OVER SPORTS contained approximately \$300,000 in counterfeit merchandise at the time the federal search warrant was executed. HSI Charleston is continuing to value the seized merchandise and expects this preliminary estimate to increase.

17. One item seized as part of the search warrant execution was an application to Tanager Outlets to lease retail space dated November 30, 2021 ("Tanger Application"). The Tanger Application was signed by LANARD SMITH and lists the following pertinent information:

¹ Blazer Investigations represents a variety of trademark and copyright holders, including, but not limited to, Nike.

² Certain accessories (hats, money clips, wallets, and shot glasses) have been determined to be legitimate (i.e.: not be counterfeit).

- a. GAME OVER SPORTS has a retail location at 2150 Northwoods Mall.
- b. The sales for the Northwoods Mall located in November and December are \$25,000/month.
- c. The sales for the Northwoods Mall location from January through October are \$10,000 to \$15,000 per month.
- d. LANARD SMITH describes the following sales breakdown on the Tanger Application: 70% jerseys, 20% shoes, and 10% miscellaneous sports items.

18. Based on the seizure of the jerseys pursuant to the federal search warrant and LANARD SMITH's representations on the Tanger Application, approximately 70% of GAME OVER SPORTS sales are from the sale of counterfeit jerseys.

19. On December 14, 2021, Agent Moody with HSI Charleston traveled to Anderson Brothers Bank located at 101 North Main Street, Mullins, SC 29574 to serve a Grand Jury Subpoena on the bank accounts associated with LANARD SMITH and GAME OVER SPORTS. In conversations with the Vice President of Anderson Brothers Bank, three open bank accounts are associated with LANDARD SMITH. One of the three open bank accounts is a business account for GAME OVER SPORTS.

20. The account number at Anderson Brothers Bank, the **Subject Account**, for GAME OVER SPORTS is 330013723. The total in the **Subject Account** in the morning of December 14, 2021 was \$185,558.28.

21. The Vice President was also able to confirm the following transactions were made in and out of the **Subject Account**:

<u>Transaction Date</u>	<u>Amount</u>
August 18, 2021	\$30,000.00 (CASH OUT)
July 12, 2021	\$35,000 (CASH IN)

June 30, 2021

\$20,000.00 (CASH IN)

June 16, 2021

\$5,000.00 (CASH IN)

22. The Vice President confirmed to the undersigned that LANARD SMITH makes deposits into all three of his open accounts at Anderson Brothers Bank.

23. Based on the business of GAMES OVER SPORTS, namely the sale of counterfeit merchandise, the undersigned believes the **Subject Account** contains proceeds of criminal activity because it is the bank account that GAME OVER SPORTS business proceeds are deposited into.

24. The Vice President of Anderson Brothers Bank has confirmed to the undersigned that on December 14, 2021, the following transfers occurred between the **Smith/Game Over Sports Accounts**

- a. At 4:04 PM LANARD SMITH transferred \$100,100.00 from the **Subject Account** to the **0248 Account**.
- b. At 4:07 PM LANARD SMITH transferred \$83,395.00 from the **Subject Account** to the **6816 Account**.

25. The transfers between the **Subject Account** and the **0248 Account** and the **6816 Account** are traceable proceeds of funds derived from criminal activity.

CONCLUSION

26. Based on the foregoing, it is my belief that probable cause exists to believe that the funds in the **Smith/Game Over Sports Accounts** up to \$129,890.80 contain proceeds traceable to violations of Title 18 U.S.C § 545 and 2320. Therefore, the **Smith/Game Over Sports Accounts** funds up to \$129,890.80 are subject to civil and criminal forfeiture to the United States pursuant to Title 18 U.S.C. § 981(a)(1)(C), made applicable to criminal forfeiture by Title 28

U.S.C. § 2461(c); and are thereby also subject to seizure pursuant to Title 18 U.S.C. § 981(b) and Title 21 U.S.C. § 853(e) and (f) by Title 18 U.S.C. § 982(b)(1).

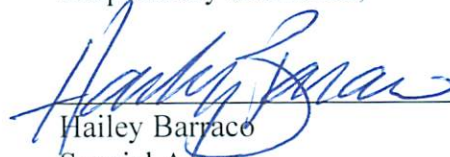
27. The issuance of the seizure warrants in this district is appropriate under Title 18 U.S.C. § 981(b)(3), and Title 28 U.S.C. § 1355(b)(1) because, notwithstanding the provisions of Rule 41(a) of the Federal Rules of Criminal Procedure, a seizure warrant may be issued by a judicial officer in any district in which a forfeiture action against the property may be filed.

28. Based on my training and experience, I know that restraining orders served on banks sometimes fail to preserve the property for forfeiture because the bank representative receiving the restraining order fails to put the necessary safeguards in place to freeze the money in time to prevent the account holder from accessing the funds electronically, or fails to notify the proper personnel as to the existence of the order, or the bank exercises its own right of setoff to satisfy an outstanding debt owed to the bank by the account holder. In contrast, where electronic funds are concerned, a seizure warrant guarantees that the funds will be in the Government's custody once the warrant is served.

THEREFORE, your Affiant respectfully requests the issuance of a seizure warrant which will authorize the seizure of \$129,890.80 from the **Smith/Game Over Sports Accounts** as described herein.

This affidavit has been reviewed by Assistant United States Attorney Amy F. Bower and Carrie Fisher.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Hailey Barraco", written over a horizontal line.

Hailey Barraco
Special Agent
Homeland Security Investigations

Sworn to me via telephone or other
Reliable electronic means and signed by me
Pursuant to Fed. R. Crim. P. 4.1 and 4(d) or
41(d)(3), as applicable

December 15, 2021

s

A handwritten signature in black ink, appearing to read "Mary Gordan Baker", written over a horizontal line.

The Honorable Mary Gordan Baker
UNITED STATES MAGISTRATE JUDGE